

**Introduced by Senators Alpert and Sher**

January 9, 2003

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An act to amend Section 353.1 of the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 46, as introduced, Alpert. Distributed energy resources.

(1) Existing law requires the Public Utilities Commission to require each electrical corporation under the operational control of the Independent System Operator as of January 1, 2001, to modify tariffs so that all customers that install new distributed energy resources in accordance with specified criteria are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources. Existing law defines "distributed energy resources" to mean any electric generation technology that meets certain criteria, including having commenced initial operation between May 1, 2001, and June 1, 2003, except that gas-fired distributed energy resources that are not operated in a combined heat and power application must commence operation no later than September 1, 2002.

This bill would expand that distributed energy resources criterion to include electric generation technology that commenced initial operation between May 1, 2001, and June 1, 2005, except that gas-fired distributed energy resources that are not operated in a combined heat and power application must commence operation no later than September 1, 2002. Because a violation of a requirement of the

commission is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) The bill would declare that it is take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The Public Utilities Commission has failed to implement  
4 provisions of Chapter 12 of the Statutes of 2001, 2001–2002 First  
5 Extraordinary Session of the Legislature, to direct electrical  
6 corporations to establish new tariffs that take into account the  
7 actual costs and benefits of distributed generation.

8 (b) The commission has failed to implement provisions of that  
9 chapter that require the commission to submit a report to the  
10 Legislature by June 1, 2002, describing the methodology to be  
11 used for determining standby rates and the process by which the  
12 rates will be established.

13 (c) As a result of inaction by the commission, standby fee tariffs  
14 continue to serve as a disincentive to the installation of distributed  
15 energy generation, which is acknowledged to provide energy  
16 certainty to the customer, relief to the energy distribution system,  
17 and diversity to the state's energy portfolio.

18 SEC. 2. Section 353.1 of the Public Utilities Code is amended  
19 to read:

20 353.1. As used in this article, “distributed energy resources”  
21 means any electric generation technology that meets all of the  
22 following criteria:

23 (a) Commences initial operation between May 1, 2001, and  
24 June 1, ~~2003~~ 2005, except that gas-fired distributed energy  
25 resources that are not operated in a combined heat and power



1 application must commence operation no later than September 1,  
2 2002.

3 (b) Is located within a single facility.

4 (c) Is five megawatts or smaller in aggregate capacity.

5 (d) Serves onsite loads or over-the-fence transactions allowed  
6 under Sections 216 and 218.

7 (e) Is powered by any fuel other than diesel.

8 (f) Complies with emission standards and guidance adopted by  
9 the State Air Resources Board pursuant to Sections 41514.9 and  
10 41514.10 of the Health and Safety Code. Prior to the adoption of  
11 those standards and guidance, for the purpose of this article,  
12 distributed energy resources shall meet emissions levels  
13 equivalent to nine parts per million oxides of nitrogen, or the  
14 equivalent standard taking into account efficiency as determined  
15 by the State Air Resources Board, averaged over a three-hour  
16 period, or best available control technology for the applicable air  
17 district, whichever is lower, except for distributed generation units  
18 that displace and therefore significantly reduce emissions from  
19 natural gas flares or reinjection compressors, as determined by the  
20 State Air Resources Control Board. These units shall comply with  
21 the applicable best available control technology as determined by  
22 the air pollution control district or air quality management district  
23 in which they are located.

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25 SEC. 3. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.

34 SEC. 4. This act is an urgency statute necessary for the  
35 immediate preservation of the public peace, health, or safety  
36 within the meaning of Article IV of the Constitution and shall go  
37 into immediate effect. The facts constituting the necessity are:

38 In order to remove barriers to clean distributed generation as  
39 soon as possible, thereby promoting energy reliability and energy

- 1 portfolio diversity, it is necessary for this act to take effect
- 2 immediately.

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